

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Erica Cardenas,)
Plaintiff,) Case No.: 1:24-cv-04041-JGK
v.)
IMS Fund, LLC,)
Defendant.)

DEFENDANT'S LIMITED INTERROGATORIES

DEFINITIONS AND INSTRUCTIONS

1. These interrogatories are to be answered in accordance with Rules 26 and 33 Federal Rules of Civil Procedure.
2. All Interrogatories contained herein must be answered separately and fully in writing, under penalties of perjury, and any objection any Interrogatories contained herein must state the reasons for such objection with sufficient particularity.
3. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).
4. The term “Complaint” means the Complaint filed in the above-referenced matter.
5. The term “document” is defined to be synonymous in meaning and equal in scope to the use of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of the term.

6. Identify (with respect to persons). When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additional, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
7. Identify (with respect to documents). When referring to documents, “to identify” means to give, to the extent known, the (i) type of document, (ii) general subject matter, (iii) the date of the document, and (iv) author(s), addressee(s) and recipient(s). In the alternative, the responding party may produce the documents, together with identifying information sufficient to satisfy Fed. R. Civ. P. 33(d).
8. The term “person” is defined as any natural person or any legal entity, including, without limit, any business or governmental entity or association.
9. The term “Plaintiff” refers to Erica Cardenas.
10. The term “Defendant” refers to IMS FUND, LLC, (“IMS”) headquartered in Albany County, New York.
11. The term “concerning” means relating to, referring to, describing, evidencing or constituting.
12. The terms “all” “any” and “each” must be construed as encompassing any and all.
13. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
14. The use of the singular form of any word includes the plural and vice versa.

15. If any documents, materials, or information responsive to the Discovery Requests below are withheld on the basis of a claim of privilege, set forth a privilege log detailing as to each item of information or document:
- a. the type of any document;
 - b. the name of the author of any document;
 - c. the name of the sender or the source, if any, of the documents or information;
 - d. the date of the document;
 - e. the nature of the privilege claim;
 - f. attachments to any such document;
 - g. the number of pages comprising any document;
 - h. a brief description of the nature and the subject matter of the information or document; and
 - i. the identification number, control number, or "Bates" number of the document.

INTERROGATORIES

INTERROGATORY No. 1: Identify the name and address of the cell phone carrier for the cell phone number (619) 947-5615 from November 9, 2023, through May 30, 2024.

INTERROGATORY No. 2: Identify the name and address of the true owner or payee for the cell phone number (619) 947-5615 which appears on the monthly billing statements from November 9, 2023, through May 30, 2024.

If necessary to obtain the monthly billing statements, please sign the attached Verified Authorization for IMS to obtain the records from the cell phone carrier.

INTERROGATORY No. 3: Identify the date, time, sender's telephone number, and amount of money Erica Cardenas was billed by the cell phone carrier for each and every incoming text message she received and for which she alleges IMS is liable.

INTERROGATORY No. 4: Explain the reason Erica Cardenas did not reply "STOP" in response to Defendant's overture in its May 10 emails that Plaintiff "Reply Stop to opt out" but instead texted back "HELP" (presumably the next day) at **10:10 A.M.** to the number (954) 335-7325 as alleged in Paragraphs 24 and 25 of the Complaint.

INTERROGATORY No. 5: Explain the reason why Erica Cardenas, after texting “Help” at **10:10am** to the number (954) 335-7325 did not elect to chose “STOP” when she received Defendant’s text message at **10:11 am**, which also indicated “*Reply STOP to unsubscribe*” as alleged in Paragraph 25 of the Complaint.

INTERROGATORY No. 6: Explain the reason Erica Cardenas did not "Reply Stop to opt out" when she allegedly received a solicitation text message from the number 312-757-3505 on May 14, 2024 at **1:43 PM**; but instead texted back at **4:16 PM**, "*What does NBH stand for*" to the number 312-757-3505, as alleged in Paragraphs 26 and 27 of the Complaint.

INTERROGATORY No. 7: Explain the reason after Erica Cardenas asked “*What does NBH stand for?*” and then (presumably the next day) again texted “Help at **10:16 am** to the number (954) 335-7325, and further, the reason Plaintiff did not elect to choose “Stop” when she receiving a responding message at **10:16 AM** which also indicated “*Reply Stop to Unsubscribe*” as alleged in paragraph 28 of the Complaint.

INTERROGATORY No. 8: Explain the reason Erica Cardenas did not "Reply Stop to opt out" when she allegedly received a solicitation text message from the number 276-972-3245 on May 16, 2024 at **8:30 AM** as alleged in Paragraph 29 of the Complaint.

INTERROGATORY NO. 9: Explain the reason Erica Cardenas did not “Reply Stop to opt out” but instead texted back “Help” on May 16, 2024 at **8:32am** to the number 276-972-3245 as alleged in paragraph 30 of the Complaint.

INTERROGATORY NO. 10: Please explain why Plaintiff did not choose “STOP” when she received a text message on May 16, 2024 at **8:33 A.M.** “*Hello (opportunity Owner)*” which also indicated “*Reply STOP to Unsubscribe*”, as alleged in paragraph 30 of the Complaint.

INTERROGATORY No. 11: Identify how many telephone numbers appear on the monthly invoice for the cell phone (619) 947-5615 from November 9, 2023, to May 30, 2024.

INTERROGATORY No. 12: For the cell phone number (619) 947-5615, identify the payment account (bank, credit card, or debit card) and the last 4 digits of the account number together with the name of the account owner who makes monthly payments from November 9, 2023 through May 30, 2024.

INTERROGATORY No. 13: Identify the name and address of the person who registered the cell phone number (619) 947-5615 with the National DNC Registry on November 9, 2023.

INTERROGATORY No. 14: Please identify and explain all damages for which Plaintiff seeks recovery as a result of Defendant’s conduct.

Respectfully submitted,

O'HAGAN MEYER

DATED: July __, 2024

BY: /s/ Andrew M. Schneiderman
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Co-Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned, Andrew M. Schneiderman, counsel for Defendant IMS Fund, LLC, hereby certify that I have served true and correct copies of the foregoing upon all counsel of record electronically via email on this ____ day of July, 2024.

/s/ Andrew M. Schneiderman _____
Andrew M. Schneiderman, Esquire

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Erica Cardenas,)
Plaintiff,) Case No.: 1:24-cv-04041-JGK
v.)
IMS Fund, LLC,)
Defendant.)

DEFENDANT'S LIMITED REQUEST FOR PRODUCTION OF DOCUMENTS

DEFINITIONS AND INSTRUCTIONS

- I. You are requested to produce all documents maintained by your personally or that are in your custody, possession or control, including all documents which are in the possession, custody or control of your agents, servants, attorney(s), consultants or accountants, regarding of the location of such documents.
- II. You are requested to state separately for each of the following numbered Requests for Production of Documents which documents will be produced for inspection and copying.
- III. If you object to any instruction or definition or to any specific item in the Requests for Production of Documents set forth below, the precise grounds for your objection(s) shall be stated with particularity. If any objection rests, in whole or in part, on a claim of privilege, the privilege claim must be stated, and all facts and documents relied on in support of such claim shall be stated or identified with particularity.

IV. In the event that you assert a privilege with respect to any definition, instruction or request for production, in whole or in part, you are requested to produce all documents (or portions thereof) requested in that portion of the Request for Production of Documents as to which you have no objection or claim of privilege.

V. If any documents, materials, or information responsive to the Discovery Requests below are withheld on the basis of a claim of privilege, set forth a privilege log detailing as to each item of information or document:

- a. the type of any document;
- b. the name of the author of any document;
- c. the name of the sender or the source, if any, of the documents or information;
- d. the date of the document;
- e. the nature of the privilege claim;
- f. attachments to any such document;
- g. the number of pages comprising any document;
- h. a brief description of the nature and the subject matter of the information or document; and
- i. the identification number, control number, or “Bates” number of the document.

VI. If any document responsive to the Request for Production of Documents was, but no longer is, in your possession, custody or control, please identify that document and state whether any such document:

- a. is missing or lost;
- b. has been destroyed;
- c. has been transferred voluntarily or involuntarily; or
- d. has been otherwise destroyed; and

- e. in each instance, please explain in detail the circumstances surrounding any such disposition thereof.
- VII. This Request for Production of Documents shall be deemed to be continuing so as to require an immediate supplemental response if any additional responsive documents are discovered, located, identified, or obtained after you complete production of documents responsive to this Request for Production of Documents.
- VIII. If the documents requested have already been produced, please provide the bates stamp numbers for the responsive documents in lieu of production.
- IX. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise)
- X. The term “Complaint” means the Complaint filed in the above-referenced matter.
- XI. The term “document” is defined to be synonymous in meaning and equal in scope to the use of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of the term.
- XII. Identify (with respect to documents). When referring to documents, “to identify” means to give, to the extent known, the (i) type of document, (ii) general subject matter, (iii) the date of the document, and (iv) author(s), addressee(s) and recipient(s). In the alternative, the responding party may produce the documents, together with identifying information sufficient to satisfy Fed. R. Civ. P. 33(d).
- XIII. The term “person” is defined as any natural person or any legal entity, including, without limit, any business or governmental entity or association.
- XIV. The term “Plaintiff” refers to Erica Cardenas.

XV. The term “Defendant” refers to IMS FUND, LLC, (“IMS”) headquartered in Albany County, New York.

XVI. The term “concerning” means relating to, referring to, describing, evidencing or constituting.

XVII. The terms “all” “any” and “each” must be constituted as encompassing any and all.

XVIII. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

XIX. The use of the singular form of any word includes the plural and vice versa.

DOCUMENT REQUESTS

REQUEST FOR PRODUCTION No. 1: Produce copies of the monthly billing statements which include monthly telephone records from November 9, 2023 through May 30, 2024 for the cell phone number (619) 947-5615, that allegedly received the text messages for which Erica Cardenas claims Defendant IMS is liable to her.

If necessary to obtain the monthly billing statements, please sign the attached Verified Authorization for IMS to obtain the records from the cell phone carrier.

REQUEST FOR PRODUCTION No. 2: Produce Copies of the monthly billing statements from November 9, 2023 through May 30, 2024 for the cell phone number (619) 947-5615 which show Erica Cardenas was charged a fee for receiving any text for which she claims IMS is liable.

REQUEST FOR PRODUCTION No. 3: Produce the statements of the account (from bank, credit card, debit card, or any sources of payment) which contained the last 4 digits of the account number, and the name of the account owner who/which makes monthly payment for the cell phone number (619) 947-5615 from November 9, 2023 through May 30, 2024.

Please kindly redact all other payment transactions except the payments for the cell phone number (619) 947-5615.

REQUEST FOR PRODUCTION No. 4: Produce documentation reflecting that Erica Cardenas personally registered her telephone number on the National DNC Registry and that it had not already been done so by someone else.

REQUEST FOR PRODUCTION No. 5: Produce all documents concerning damages for which Plaintiff seeks recovery as a result of Defendant’s alleged conduct.

REQUEST FOR PRODUCTION No. 6: The service contract(s) for the telephone number (619) 947-5615

Respectfully submitted,

O'HAGAN MEYER

DATED: July __, 2024

BY: /s/ Andrew M. Schneiderman

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CERTIFICATE OF SERVICE

The undersigned, Andrew M. Schneiderman, counsel for Defendant IMS Fund, LLC, hereby certify that I have served true and correct copies of the foregoing upon all counsel of record electronically via email on this ____ day of July, 2024.

/s/ Andrew M. Schneiderman _____
Andrew M. Schneiderman, Esquire